

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
Charleston Division

IN RE:

ROLAND ALAN GRACE
JOSETTE RENEE GRACE

Case Number: 05-24883 - RGP
Chapter: 11

Debtors

NOTICE OF MOTION TO MODIFY AUTOMATIC STAY

NOTICE IS HERBY GIVEN of the attached motion to modify the automatic stay filed on April 5, 2006 by GMAC Mortgage Corporation in the above-styled case.

Failure to respond in writing to the Court within fifteen (15) days from the date of this notice may result in the requested relief being granted by the Court without a hearing or further notice; but

If a response is filed in writing within fifteen (15) days, a hearing on the motion and response will be held at a time, date, and place to be determined by the Court.

DATE: 4/5/06

/s/ Angela N. Watson
Angela N. Watson, Esquire
Attorney Bar No. 8617
Draper and Goldberg, PLLC
329 South Raleigh Street
Martinsburg, WV 25401-2638
(304) 267-1488

CERTIFICATION OF SERVICE

I HEREBY CERTIFY that copies of the foregoing Notice of Motion were mailed by first class mail, postage-paid, or served electronically this 5th day of April, 2006 to the following parties:

Roland Alan Grace
Cheylan, WV 25035
Josette Renee Grace
42 Smith Hts
Cheylan, WV 25035
Debtors

Hoyer, Hoyer & Smith, PLLC
22 Capitol Street
Charleston, WV 25301
Attorney for the Debtors

U. S. Trustee
300 Virginia St. East
Room 2025
Charleston, WV 25301

/s/ Angela N. Watson
Angela N. Watson, Esquire

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
Charleston Division

IN RE:

ROLAND ALAN GRACE
JOSETTE RENEE GRACE

Case No. 05-24883 - RGP
(Chapter 13)

Debtors

GMAC MORTGAGE CORPORATION
3451 HAMMOND AVE
SUITE 150
WATERLOO, IA 50702

Movant

v.

ROLAND ALAN GRACE
JOSETTE RENEE GRACE
42 SMITH HTS
CHEYLAN, WV 25035

Respondents

MOTION FOR RELIEF FROM AUTOMATIC STAY

GMAC Mortgage Corporation (“GMAC”) by undersigned counsel, respectfully moves this Honorable Court to terminate the Automatic Stay and, as grounds therefore, states as follows:

1. This proceeding seeking relief under Section 362 of the U.S. Bankruptcy Code is a contested matter within the meaning of 9014 and 4001 of the Federal Rules of Bankruptcy Procedure, and this court has jurisdiction over this matter pursuant to 28 U.S.C. Section 157.

2. On October 14, 2005, the above named debtors, Roland Alan Grace and Josette Renee Grace (“Debtors”), filed in this court a Petition under Chapter 11 of the United States Bankruptcy Code. None was appointed Chapter 11 Trustee.

3. On or about February 4, 1999 the Debtor executed and delivered to GMAC Mortgage Corporation a Note in the amount of forty-five thousand five hundred and 00/100 dollars (\$45,500.00), plus interest at the rate of 6.6250% per annum, attorneys’ fees, costs and late charges to be paid over fifteen (15) years. A copy of the Note is attached as Exhibit “A” and incorporated herein.

4. To secure the repayment of the sums due under the Note, the Debtor executed and delivered to GMAC Mortgage Corporation a Deed of Trust dated February 4, 1999 encumbering the real property (“Property”) more particularly described in the Deed of Trust which has the address of 15083 Maccorkle Ave, Cheylan, West Virginia 25035. A copy of the Deed of Trust is attached as Exhibit “B” and incorporated herein.

5. The Deed of Trust and Note were later transferred to GMAC and GMAC is the holder of the Deed of Trust and Note.

6. As of the Debtor(s) owe an unpaid principal balance of \$26,927.84 under the Note, plus additional accruing interest, late charges, attorneys’ fees and costs.

7. The Debtor has failed to make the post-petition payments due under the Note for two months and is in arrears for a total amount of \$972.30, plus late charges, attorneys' fees and costs.

8. The scheduled market value of the Property is \$65,000.00.

9. The Debtor(s) are in default under the Note.

10. The Debtor(s) have not and cannot offer GMAC adequate protection of its interest in the Property, and GMAC avers it is not adequately protected.

11. The Property is not necessary for an effective reorganization, as there is little or no equity in the Property.

12. Cause exists to terminate the Automatic Stay.

WHEREFORE, the premises considered, GMAC respectfully requests that this Court enter an Order terminating the Automatic Stay allowing GMAC to exercise its legal rights under applicable law as to the Property, including but not limited to foreclosure against the Property under the Deed of Trust, and for such other and further relief as this court deems just and proper.

Respectfully submitted,

/s/ Angela N. Watson
Angela N. Watson, Bar #8617
Attorneys for the Plaintiff
Draper & Goldberg, P.L.L.C
329 South Raleigh Street
Martinsburg, WV 25401-2638
(304) 267-1488

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
Charleston Division

IN RE:

ROLAND ALAN GRACE
JOSETTE RENEE GRACE

Debtors

Case No. 05-24883 - RGP
(Chapter 13)

GMAC MORTGAGE CORPORATION

Movant

v.

ROLAND ALAN GRACE
JOSETTE RENEE GRACE

Respondents

ORDER TERMINATING AUTOMATIC STAY

UPON CONSIDERATION of the Motion for Relief from Automatic Stay (“Motion”) filed by GMAC Mortgage Corporation, (“GMAC”), and any response thereto, and good cause having been shown, it is hereby

ORDERED, that the Motion be, and the same is hereby **GRANTED**; and it is further

ORDERED, that the Automatic Stay is terminated allowing GMAC to exercise its rights under applicable law against the Debtors’ Property more particularly described in the Deed of Trust which has the address of 15083 Maccorkle Ave, Cheylan, West

Virginia 25035 ("property"), including, but not limited to foreclosure against the property under the deed of trust.

Date:_____

BY THE COURT:

Ronald G. Pearson
United States Bankruptcy Court Judge

I ASK FOR THIS:

/s/ Angela N. Watson
Angela N. Watson, Bar #8617
Draper & Goldberg, P.L.L.C.
329 South Raleigh Street
Martinsburg, WV 25401-2638
(304) 267-1488

Copies to:

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22 Capitol Street
Charleston, WV 25301
Attorney for the Debtors

U. S. Trustee
300 Virginia St. East
Room 2025
Charleston, WV 25301

Attached is List of 20 Largest Creditors

CERTIFICATION OF SERVICE

I HEREBY CERTIFY that copies of the foregoing Motion for Relief from Stay and Proposed Order were mailed by first class mail, postage-paid, or served electronically this 5th day of April, 2006 to the following parties:

Roland Alan Grace
Josette Renee Grace
42 Smith Hts
Cheylan, WV 25035
Debtors

Hoyer, Hoyer & Smith, PLLC
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Charleston, WV 25301
Attorney for the Debtors

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/s/ Angela N. Watson
Angela N. Watson, Esquire